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In re Application of  
JOSHI, Harish C. *et al*  
U.S. Application No.: 09/582,375  
PCT No.: PCT/US98/14979  
Int. Filing Date: 20 July 1998  
Priority Date: 19 August 1997  
Attorney's Docket No.: EMU144NAT  
For: NOSCAPINE DERIVATIVES, USEFUL  
AS ANTICANCER AGENTS

DECISION ON PETITION  
UNDER 37 CFR 1.181

The decision is in response to applicants' "Submission of Photocopies of Transmittal Documents and Request for Entry Into National Phase Under 35 U.S.C. 371" filed on 08 June 2000. This is being treated as a petition under 37 CFR 1.181. No petition fee is required.

**BACKGROUND**

On 20 July 1998, applicants filed international application PCT/US98/14979 claiming priority to a United States patent application filed 19 August 1997.

On 17 March 1999, a Demand was filed with the International Preliminary Examination Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. Accordingly, the deadline for submission of a copy of the international application and payment of the basic national fee was extended to expire thirty months from the priority date, *i.e.*, 22 February 2000 (19 February 2000 was a Saturday and 21 February 2000 was a holiday).

On 18 February 2000, applicants purportedly filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, an unexecuted declaration, a signed small entity statement, copies of the international preliminary examination report, and a check of \$87.00 for the basic national fee and independent claim fee.

On 21 June 2000, applicants submitted the instant "Submission of Photocopies of Transmittal Documents and Request for Entry Into National Phase Under 35 U.S.C. 371" which was accompanied by, *inter alia*, copies of the documents purportedly filed 18 February 2000, the stamped postcard receipt for the 18 February 2000 documents, and a copy of Express Mail Receipt No. EL209596617US.

### DISCUSSION

MPEP 503 lists procedures for applicants to ensure receipt of any paper filed in the PTO. Applicants must enclose a self-addressed postcard identifying all of the papers filed. The PTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is requested. For example, the MPEP states each separate component, *e.g.*, the number of pages of specification, number of claims (nonprovisional applications), number of sheets of drawings, cover sheet (provisional applications), etc. should be itemized on the postcard.

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt clearly identifies the application by PCT number, title, applicant and docket number. The receipt itemizes all papers filed in the PTO including the transmittal letter, unexecuted declaration, small entity statement, and a check for \$87.00. The receipt is stamped "418 Rec'd PCT/PTO 18 FEB 2000" across its face.

Applicants also included a copy of Express Mail Receipt No. EL209596617US indicating that the documents were deposited with the USPS on "2 - 18 - 00." Furthermore, Express Mail Receipt No. EL209596617US was listed on the "Certificate of Mailing" and postcard receipt of the documents purportedly filed 18 February 2000.

Thus, applicants have submitted *prima facie* evidence of receipt in the PTO of those items listed on the postcard receipt. Moreover, a review of PTO financial records indicate that a check of \$87.00 was received on 18 February 2000 and placed in the financial records of PCT/US98/14979. The \$87.00 in fees have been removed and placed in the above-captioned application.

### CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 to accept the documents as filed on 18 February 2000 is GRANTED.

This application is being forwarded to the United States Designated/Elected Office for

further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) for failing to provide a declaration in compliance with 37 CFR 1.497 and surcharge fee pursuant to 37 CFR 1.492(e).



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